

CLOSED

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:10-cv-00568-FL**

Weisner v. Animal and Plant Health Inspection Service, et al
Assigned to: District Judge Louise Wood Flanagan
related Case: 5:10-cv-00273-FL
Cause: 05:552 Freedom of Information Act

Date Filed: 12/12/2010
Date Terminated: 06/29/2012
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Ronia Weisner

represented by **Steven C. Lawrence**
Anderson, Johnson, Lawrence & Butler,
LLP
P.O. Drawer 2737
109 Greene St., Suite 204
Fayetteville, NC 28302-2737
910-483-1171x110
Fax: 910-483-5005
Email: slawrence@andersonjohnson.com

Steven M. Wise
Law Firm of Steven M. Wise
5195 NW 112th Terrace
Coral Springs, FL 33076
954-648-9864
Fax: 964-346-0358
Email: WiseBoston@aol.com
TERMINATED: 05/23/2012
ATTORNEY TO BE NOTICED

Joseph Powell Mustian
The Law Office of Joe Mustian
8611 Concord Mills Blvd., #430
Concord, NC 28027
919-929-7977
Email: jmustian@ncanimallaw.com
TERMINATED: 05/23/2012
ATTORNEY TO BE NOTICED

V.

Defendant

**Animal and Plant Health Inspection
Service**

represented by **W. Ellis Boyle**
U. S. Attorney's Office
Rm. 800, 310 New Bern Ave.
Raleigh, NC 27601
919-856-4121
Email: ellis.boyle@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**United States Department of
Agriculture**

represented by **W. Ellis Boyle**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/12/2010	<u>1</u>	*DOCUMENT CORRECTED AND REFILED AT DOCKET ENTRY <u>4</u> * – COMPLAINT against Animal and Plant Health Inspection Service (Filing fee \$ 350 receipt number 0417–1431075.), filed by Ronia Weisner. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Civil Cover Sheet) (Mustian, Joseph) Modified on 12/14/2010 to insert refiling information (Baker, C.). (Entered: 12/12/2010)
12/12/2010	<u>2</u>	FINANCIAL DISCLOSURE STATEMENT by Ronia Weisner (Mustian, Joseph) (Entered: 12/12/2010)
12/12/2010	<u>3</u>	NOTICE by Ronia Weisner re <u>1</u> Complaint, <i>Summons In A Civil Action</i> (Mustian, Joseph) (Entered: 12/12/2010)
12/13/2010		NOTICE OF DEFICIENCY re: <u>1</u> Complaint. Counsel failed to identify each exhibit as required by the Court. Counsel is directed to Section L(2)(b) of the Court's Electronic Policy and Procedure Manual which states attachments and exhibits must be identified with a clear and complete description of the document. Counsel is instructed to refile the Complaint and identify each exhibit. FURTHER, counsel must resubmit the Summons and include local counsel's name on the Summons. Counsel should use the event "Notice–Other" located under the Notice option on the main menu. (Heath, D.) (Entered: 12/13/2010)
12/13/2010	<u>4</u>	COMPLAINT against Animal and Plant Health Inspection Service (Filing fee \$ 350 receipt number 0417–1431075.), filed by Ronia Weisner. (Attachments: # <u>1</u> Exhibit APHIS' denial of Weisner FOIA request, # <u>2</u> Exhibit Weisner appeal of APHIS' denial of FOIA request, # <u>3</u> Exhibit Weisner letter of inquiry to APHIS in re: denial of FOIA request, # <u>4</u> Exhibit Weisner second letter of inquiry to APHIS in re: denial of FOIA request) (Mustian, Joseph) (Entered: 12/13/2010)
12/13/2010	<u>5</u>	NOTICE by Ronia Weisner re <u>4</u> Complaint, <i>Summons In A Civil Action</i> (Mustian, Joseph) (Entered: 12/13/2010)
12/14/2010	<u>6</u>	Summons Issued as to Animal and Plant Health Inspection Service. Counsel should print summons and effect service. (Baker, C.) Modified . (Entered: 12/14/2010)
01/27/2011	<u>7</u>	ANSWER to <u>4</u> Complaint, by Animal and Plant Health Inspection Service. (Boyle, W.) (Entered: 01/27/2011)
02/01/2011	<u>8</u>	INITIAL ORDER REGARDING PLANNING AND SCHEDULING – Discovery Plan due by 3/8/2011. Initial Conference set for 3/15/2011 at 11:00 AM in Telephonic before Chief Judge Louise Wood Flanagan. Signed by Chief Judge Louise Wood Flanagan on 02/01/2011. Copies served electronically. (Baker, C.) (Entered: 02/01/2011)
02/16/2011	<u>9</u>	AMENDED COMPLAINT against Animal and Plant Health Inspection Service, United States Department of Agriculture, filed by Ronia Weisner. (Mustian, Joseph) (Entered: 02/16/2011)
02/16/2011	<u>10</u>	NOTICE by Animal and Plant Health Inspection Service – re: <u>9</u> Amended Complaint, <u>1</u> Complaint, <i>Summons In A Civil Action</i> . (Mustian, Joseph) (Entered: 02/16/2011)
02/16/2011	<u>11</u>	NOTICE by Ronia Weisner – re: <u>9</u> Amended Complaint, <u>1</u> Complaint, <i>Summons In A Civil Action</i> . (Mustian, Joseph) (Entered: 02/16/2011)
02/17/2011	<u>12</u>	Summons Issued as to United States Department of Agriculture. Counsel should print summons and effect service. (Baker, C.) (Entered: 02/17/2011)
03/01/2011	<u>13</u>	ANSWER to <u>9</u> Amended Complaint by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Boyle, W.) (Entered: 03/01/2011)
03/01/2011	<u>14</u>	Rule 26(f) Report (joint) by Ronia Weisner. (Mustian, Joseph) (Entered: 03/01/2011)
03/03/2011		NOTICE of DATE/TIME CHANGE of Event: Telephonic Scheduling Conference set for 3/15/2011 has been rescheduled for Wednesday, 3/16/2011

		at 1:30 PM before Chief Judge Louise Wood Flanagan. (Baker, C.) (Entered: 03/03/2011)
03/11/2011		NOTICE of TIME CHANGE of Event: Telephonic Scheduling Conference set for for Wednesday, 3/16/2011 at 1:30 PM will instead convene at 10:30 AM before Chief Judge Louise Wood Flanagan. (Baker, C.) (Entered: 03/11/2011)
03/16/2011		Minute Entry for proceedings held before Chief Judge Louise Wood Flanagan: Telephonic Scheduling Conference held on 3/16/2011. Present at conference – Steven Wise and Joseph Mustian (counsel for plaintiff); W. Ellis Boyle (counsel for defendants); Caroline Batchelor, Law Clerk; Christa Baker/Susan Tripp, Deputy Clerks. Issues bearing on case management and scheduling discussed. Written case management order to follow. (Baker, C.) (Entered: 03/16/2011)
03/23/2011	<u>15</u>	CASE MANAGEMENT ORDER: Discovery due by 6/6/2011. Motions due by 8/31/2011. Jury Trial set for that civil term of court commencing 1/17/2012 in New Bern – Courtroom before Chief Judge Louise Wood Flanagan. Signed by Chief Judge Louise Wood Flanagan on 03/23/2011. (Baker, C.) (Entered: 03/23/2011)
08/30/2011	<u>16</u>	First MOTION for Extension of Time <i>In Which To File Dispositive Motions</i> by Ronia Weisner. (Attachments: # <u>1</u> Text of Proposed Order) (Mustian, Joseph) (Entered: 08/30/2011)
08/31/2011		Motion Submitted to Chief Judge Louise Wood Flanagan – <u>16</u> First MOTION for Extension of Time <i>In Which To File Dispositive Motions</i> . (Baker, C.) (Entered: 08/31/2011)
09/01/2011	<u>17</u>	ORDER granting <u>16</u> Motion for Extension of Time – Dispositive motions due 09/30/2011. Signed by Chief Judge Louise Wood Flanagan on 08/31/2011. (Baker, C.) (Entered: 09/01/2011)
09/29/2011	<u>18</u>	Joint MOTION for Extension of Time to File File Dispositive Motions by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Attachments: # <u>1</u> Text of Proposed Order) (Boyle, W.) (Entered: 09/29/2011)
09/29/2011		Motion Submitted to Chief Judge Louise Wood Flanagan – <u>18</u> Joint MOTION for Extension of Time to File Dispositive Motions. (Baker, C.) (Entered: 09/29/2011)
10/03/2011	<u>19</u>	ORDER granting <u>18</u> Motion for Extension of Time to File – The parties have up to and including October 31, 2011, in which to file dispositive motions. Signed by Chief Judge Louise Wood Flanagan on 10/02/2011. (Baker, C.) (Entered: 10/03/2011)
11/01/2011		**** Set Hearing – Final Pretrial Conference set for 1/3/2012 at 2:30 PM in New Bern Courtroom before District Judge Louise Wood Flanagan. (Baker, C.) (Entered: 11/01/2011)
11/01/2011	<u>20</u>	Second MOTION for Extension of Time to File Dispositive Motions by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Attachments: # <u>1</u> Text of Proposed Order) (Boyle, W.) Modified on 11/2/2011 to correct docket entry text. (Baker, C.) (Entered: 11/01/2011)
11/02/2011		Motion Submitted to District Judge Louise Wood Flanagan – <u>20</u> Second MOTION for Extension of Time to File Dispositive Motions. (Baker, C.) (Entered: 11/02/2011)
11/08/2011	<u>21</u>	ORDER granting <u>20</u> Motion for Extension of Time to File Dispositive Motions – The parties have up to and including November 21, 2011, in which to file dispositive motions. Trial is reset for the court's civil term beginning on February 21, 2012, in New Bern. Signed by District Judge Louise Wood Flanagan on 11/08/2011. (Baker, C.) (Entered: 11/08/2011)
12/05/2011	<u>22</u>	ORDER – Trial in this matter has been reset to the court's civil term beginning February 21, 2012, but the final pretrial conference remains on the calendar for January 3, 2012. For the efficient administration of justice, the final pretrial conference is continued from January 3, 2012, to a date and time to be noticed by the clerk of court in the near future. Signed by District Judge Louise Wood Flanagan on 12/05/2011. (Baker, C.) (Entered: 12/05/2011)

12/06/2011		**** Reset Hearing – Final Pretrial Conference reset for 2/3/2012 at 1:30 PM in New Bern Courtroom before District Judge Louise Wood Flanagan. (Baker, C.) (Entered: 12/06/2011)
02/03/2012	<u>23</u>	Minute Entry for proceedings held before District Judge Louise Wood Flanagan in New Bern, NC – Final Pretrial Conference held on 2/3/2012. Court reviews docket generally and notes for record that no counsel appeared for any party as noticed for today's hearing. The parties have not informed court of status of case. Clerk confirms service of notice of hearing was made to all counsel. Court dismisses this action with prejudice. Written dismissal order to follow. (Court Reporter – Harry Hagopian) (Baker, C.) (Entered: 02/03/2012)
02/04/2012	<u>24</u>	MOTION to Vacate <u>23</u> Minute Entry re dismissal. <i>Dismissal</i> by Ronia Weisner (Attachments: # <u>1</u> Supplement Memorandum in Support of Plaintiff's Motion To Vacate Dismissal of Case # <u>2</u> Affidavit of Steven M. Wise). (Mustian, Joseph) (Entered: 02/04/2012)
02/06/2012	<u>25</u>	ORDER granting in part <u>24</u> Motion to Vacate Dismissal – The court reopens this case for the limited purpose of filing, briefing, and disposition of plaintiff's motion for attorneys' fees. Plaintiff shall have fourteen (14) days from date of entry of this order to file motion seeking attorneys' fees, and defendants shall have fourteen (14) days thereafter to respond. Signed by District Judge Louise Wood Flanagan on 02/06/2012. (Baker, C.) (Entered: 02/06/2012)
02/21/2012	<u>27</u>	MOTION for Attorney Fees by Ronia Weisner. (Attachments: # <u>1</u> Memorandum in Support of Plaintiff's Motion For Attorney's Fees and Costs, # <u>2</u> Affidavit of Ronia Weisner, # <u>3</u> Affidavit of Joseph P. Mustian, # <u>4</u> Affidavit of Steven M. Wise, # <u>5</u> Exhibit A – Affidavit of Steven M. Wise, # <u>6</u> Exhibit B – Affidavit of Steven M. Wise, # <u>7</u> Exhibit C (Part 1) – Affidavit of Steven M. Wise, # <u>8</u> Exhibit C (Part 2) – Affidavit of Steven M. Wise, # <u>9</u> Exhibit C (Part 3) – Affidavit of Steven M. Wise, # <u>10</u> Exhibit C (Part 4) – Affidavit of Steven M. Wise, # <u>11</u> Exhibit C (Part 5) – Affidavit of Steven M. Wise, # <u>12</u> Exhibit C (Part 6) – Affidavit of Steven M. Wise) (Mustian, Joseph) (Entered: 02/21/2012)
02/22/2012		NOTICE OF DEFICIENCIES re: <u>27</u> Motion for Attorney Fees – Pursuant to the judge's practice preferences on the court's website, counsel must submit a proposed order. The order must be filed electronically using the event PROPOSED ORDER located in the RESPONSES AND REPLIES category. Counsel is also reminded that a Memorandum in Support should be filed as a separate entry using event codes located under 'Motions and Related Filings: Responses and Replies'. In the future, be sure to file each pleading separately and link the Memorandum to the underlying Motion. No need to refile at this time. (Baker, C.) (Entered: 02/22/2012)
02/23/2012	<u>28</u>	Proposed Order re <u>27</u> MOTION for Attorney Fees filed by Ronia Weisner. (Mustian, Joseph) (Entered: 02/23/2012)
03/06/2012	<u>29</u>	MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Attorney Fees by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Attachments: # <u>1</u> Text of Proposed Order) (Boyle, W.) (Entered: 03/06/2012)
03/08/2012		Motion Submitted to District Judge Louise Wood Flanagan – <u>29</u> MOTION for Extension of Time to File Response as to <u>27</u> MOTION for Attorney Fees. (Baker, C.) (Entered: 03/08/2012)
03/08/2012	<u>30</u>	ORDER granting <u>29</u> Motion for Extension of Time to File Response re <u>27</u> MOTION for Attorney Fees – Responses due by 3/20/2012. Signed by District Judge Louise Wood Flanagan on 03/08/2012. (Baker, C.) (Entered: 03/08/2012)
03/20/2012	<u>31</u>	*DOCUMENT CORRECTED AND REFILED AT DOCKET ENTRY 33* – RESPONSE in Opposition re <u>27</u> MOTION for Attorney Fees filed by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Attachments: # <u>1</u> Exhibit List, # <u>2</u> Exhibit 1 – Emails from Wise to Boyle dated 11/16/2011 and 11/9/2011, # <u>3</u> Exhibit 2 – Emails dated 12/1/2011, # <u>4</u> Exhibit 3 – Email to Steve Wise dated 12/22/2011 with draft Stipulation of Dismissal, # <u>5</u> Exhibit 4 – Email from Wise to Boyle dated 1/27/2012, # <u>6</u> Exhibit 5 – Email from Wise to Boyle dated 1/30/2012, # <u>7</u> Exhibit 6 – Email from Wise to Boyle dated

		2/1/2012) (Boyle, W.) Modified on 3/21/2012 to insert refiling information. (Baker, C.) (Entered: 03/20/2012)
03/20/2012	<u>32</u>	*DOCUMENT CORRECTED AND REFILED AT DOCKET ENTRY <u>34</u> * – Declaration re <u>31</u> Response in Opposition to Motion by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Boyle, W.) Modified on 3/21/2012 to insert refiling information. (Baker, C.) (Entered: 03/20/2012)
03/20/2012	<u>33</u>	RESPONSE in Opposition re <u>27</u> MOTION for Attorney Fees filed by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Boyle, W.) Modified on 3/21/2012. (Baker, C.) (Entered: 03/20/2012)
03/20/2012	<u>34</u>	Declaration re <u>33</u> Response in Opposition to Motion by Animal and Plant Health Inspection Service, United States Department of Agriculture. (Attachments: # <u>1</u> Exhibit List, # <u>2</u> Exhibit 1 – Emails from Wise to Boyle dated 11/16/11 and 11/9/11, # <u>3</u> Exhibit 2 – Emails dated 12/1/11, # <u>4</u> Exhibit 3 – Email to Wise dated 12/22/11 with draft Stipulation of Dismissal, # <u>5</u> Exhibit 4 – Email from Wise to Boyle dated 1/27/12, # <u>6</u> Exhibit 5 – Email from Wise to Boyle dated 1/30/12, # <u>7</u> Exhibit 6 – Email from Wise to Boyle dated 2/1/12) (Boyle, W.) (Entered: 03/20/2012)
03/28/2012	<u>35</u>	**DISREGARD ENTRY: REFILED AT <u>37</u> ** MOTION to Withdraw of <i>Steven M. Wise, Esq.</i> by Ronia Weisner. (Mustian, Joseph) Modified on 3/30/2012 to note correction. (Tripp, S.) (Entered: 03/28/2012)
03/28/2012	<u>36</u>	First MOTION to Withdraw as Attorney of <i>Joseph P. Mustian, Esq.</i> by Ronia Weisner. (Mustian, Joseph) (Entered: 03/28/2012)
03/29/2012		NOTICE OF DEFICIENCY re: <u>35</u> Motion to Withdraw and <u>36</u> Motion to Withdraw as Attorney. No proposed orders provided. Counsel should file the proposed orders using the event provided under the "Responses and Replies" category. Quality Control Clerk telephoned counsel as to other deficiencies in the filings. (Heath, D.) (Entered: 03/29/2012)
03/29/2012	<u>37</u>	First MOTION to Withdraw as Attorney by <i>Steven M. Wise, Esq.</i> by Ronia Weisner. (Attachments: # <u>1</u> Text of Proposed Order) (Mustian, Joseph) (Entered: 03/29/2012)
03/29/2012	<u>38</u>	Proposed Order re <u>36</u> First MOTION to Withdraw as Attorney of <i>Joseph P. Mustian, Esq.</i> filed by Ronia Weisner. (Mustian, Joseph) (Entered: 03/29/2012)
03/30/2012		Motions Submitted to District Judge Louise Wood Flanagan: <u>37</u> First MOTION to Withdraw as Attorney by <i>Steven M. Wise, Esq.</i> and <u>36</u> First MOTION to Withdraw as Attorney of <i>Joseph P. Mustian, Esq.</i> (Tripp, S.) (Entered: 03/30/2012)
04/09/2012		Motion Submitted to District Judge Louise Wood Flanagan – <u>27</u> MOTION for Attorney Fees. (Baker, C.) (Entered: 04/09/2012)
04/10/2012		MOTIONS REFERRED to Magistrate Judge David W. Daniel – <u>37</u> MOTION to Withdraw as Attorney by <i>Steven M. Wise, Esq.</i> , <u>27</u> MOTION for Attorney Fees, and <u>36</u> MOTION to Withdraw as Attorney of <i>Joseph P. Mustian, Esq.</i> (Baker, C.) (Entered: 04/10/2012)
05/08/2012	<u>39</u>	NOTICE of Appearance by Steven C. Lawrence on behalf of Ronia Weisner. (Lawrence, Steven) (Entered: 05/08/2012)
05/23/2012	<u>40</u>	ORDER granting <u>36</u> Motion to Withdraw as Attorney – Attorney Joseph Powell Mustian terminated as counsel for plaintiff. Signed by Magistrate Judge David W. Daniel on 05/23/2012. (Baker, C.) (Entered: 05/23/2012)
05/23/2012	<u>41</u>	ORDER granting <u>37</u> Motion to Withdraw as Attorney – Attorney Steven M. Wise terminated as counsel for plaintiff. Signed by Magistrate Judge David W. Daniel on 05/23/2012. (Baker, C.) (Entered: 05/23/2012)
06/29/2012	<u>42</u>	ORDER denying <u>27</u> Motion for Attorney Fees – Signed by Magistrate Judge David W. Daniel on 06/29/2012. (Baker, C.) (Entered: 06/29/2012)